

incurred and that such expenses and the specified assessment rate to cover such expenses will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1995-96 fiscal year for the program began July 1, 1995. The marketing order requires that the rate of assessment apply to all assessable Bartlett pears handled during the fiscal year. In addition, handlers are aware of this action which was recommended by the Committee at a public meeting and published in the Federal Register as an interim final rule. No comments were received concerning the interim final rule that is adopted in this action as a final rule without change.

List of Subjects in 7 CFR Part 931

Marketing agreements, Pears,
Reporting and recordkeeping
requirements.

PART 931—FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

Accordingly, the interim final rule amending 7 CFR part 931 which was published at 60 FR 40058 on August 7, 1995, is adopted as a final rule without change.

Dated: September 22, 1995.
Sharon Bomer Lauritsen,
Deputy Director, Fruit and Vegetable Division.
[FR Doc. 95-24046 Filed 9-27-95; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 987

[Docket No. FV95-987-1FR]

Domestic Dates Produced or Packed in Riverside County, California; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service,
USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 987 for the 1995-96 crop year. Authorization of this budget enables the California Date Administrative Committee (Committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATE: October 1, 1995,
through September 30, 1996.

FOR FURTHER INFORMATION CONTACT:
Martha Sue Clark, Marketing Order
Administration Branch, Fruit and
Vegetable Division, AMS, USDA, P.O.
Box 96456, room 2523-S, Washington,
DC 20090-6456, telephone 202-720-
9918; or Maureen Pello, California
Marketing Field Office, Fruit and
Vegetable Division, AMS, USDA, suite
102B, 2202 Monterey Street, Fresno,
California 93721, telephone 209-487-
5901.

SUPPLEMENTARY INFORMATION: This rule
is issued under Marketing Agreement
and Order No. 987, both as amended (7
CFR part 987), regulating the handling
of dates produced or packed in
Riverside County, California. The
marketing agreement and order are
effective under the Agricultural
Marketing Agreement Act of 1937, as
amended (7 U.S.C. 601-674), hereinafter
referred to as the Act.

The Department of Agriculture
(Department) is issuing this rule in
conformance with Executive Order
12866.

This rule has been reviewed under
Executive Order 12778, Civil Justice
Reform. Under the marketing order now
in effect, California dates are subject to
assessments. Funds to administer the
California date marketing order are
derived from such assessments. It is
intended that the assessment rate as
issued herein will be applicable to all
assessable dates during the 1995-96
crop year which begins October 1, 1995,
and ends September 30, 1996. This final
rule will not preempt any State or local
laws, regulations, or policies, unless
they present an irreconcilable conflict
with this rule.

The Act provides that administrative
proceedings must be exhausted before
parties may file suit in court. Under
section 608c(15)(A) of the Act, any
handler subject to an order may file
with the Secretary a petition stating that
the order, any provision of the order, or
any obligation imposed in connection
with the order is not in accordance with
law and request a modification of the
order or to be exempted therefrom. Such
handler is afforded the opportunity for
a hearing on the petition. After the
hearing the Secretary would rule on the
petition. The Act provides that the
district court of the United States in any
district in which the handler is an
inhabitant, or has his or her principal
place of business, has jurisdiction in
equity to review the Secretary's ruling
on the petition, provided a bill in equity
is filed not later than 20 days after the
date of the entry of the ruling.

Pursuant to requirements set forth in
the Regulatory Flexibility Act (RFA), the
Administrator of the Agricultural
Marketing Service (AMS) has
considered the economic impact of this
rule on small entities.

The purpose of the RFA is to fit
regulatory actions to the scale of
business subject to such actions in order
that small businesses will not be unduly
or disproportionately burdened.
Marketing orders issued pursuant to the
Act, and the rules issued thereunder, are
unique in that they are brought about
through group action of essentially
small entities acting on their behalf.
Thus, both statutes have small entity
orientation and compatibility.

There are approximately 135
producers of California dates under the
marketing order and approximately 25
handlers. Small agricultural producers
have been defined by the Small
Business Administration (13 CFR
121.601) as those having annual receipts
of less than \$500,000, and small
agricultural service firms are defined as
those whose annual receipts are less
than \$5,000,000. The majority of
California date producers and handlers
may be classified as small entities.

The budget of expenses for the 1995-
96 crop year was prepared by the
California Date Administrative
Committee, the agency responsible for
local administration of the marketing
order, and submitted to the Department
for approval. The members of the
Committee are producers and handlers
of California dates. They are familiar
with the Committee's needs and with
the costs for goods and services in their
local area and are, thus, in a position to
formulate an appropriate budget. The
budget was formulated and discussed in
a public meeting. Thus, all directly
affected persons have had an
opportunity to participate and provide
input.

The assessment rate recommended by
the Committee was derived by dividing
anticipated expenses by expected
shipments of California dates. Because
that rate will be applied to actual
shipments, it must be established at a
rate that will provide sufficient income
to pay the Committee's expenses.

The Committee met on May 18, 1995,
and by votes of 6 to 3 recommended a
1995-96 assessment rate and operating
expenses and increased market
promotion expenses to fund the
Committee's marketing plan. The two
handlers voting against the funding for
the marketing plan believe individual
handlers should do more advertising on
their own; the other no vote came from
a producer who expressed concerns
about the outstanding assessments owed

the Committee. However, the majority of Committee members expressed the need for the industry to work together to promote California dates and help reduce current inventories.

The 1995-96 budget of \$774,218 is \$203,218 more than the previous year. Included in the budgeted expenditures is an operating budget of \$160,000, \$24,865 more than last year, with a 26.25 percent surplus account allocation, for a net operating budget of \$118,000, or \$18,000 more than last year. Also included is \$656,218 allocated for market promotion, \$206,218 more than last year.

Budget items for 1995-96 which have increased compared to those budgeted for 1994-95 (in parentheses) are: Executive Director's salary, \$66,000 (\$57,500), Marketing Assistant's Salary, \$24,000 (\$18,500), health and welfare benefits, \$10,500 (\$8,500), payroll taxes, \$8,000 (\$5,814), rent, \$7,500 (\$7,000), professional services-accounting, \$3,000 (\$2,000), contingency, \$5,200 (\$221), consumer public relations, \$151,500 (\$60,000), consumer media, \$336,218 (\$265,000), industrial promotion, \$115,000 (\$30,000), and \$13,000 for a secretary/receptionist for which no funding was recommended last year. Items which have decreased compared to the amount budgeted for 1994-95 (in parentheses) are: Copier lease and maintenance, \$2,100 (\$2,400), retail trade promotion, \$35,000 (\$45,000), and (\$4,000) for equipment for marketing efforts, for which no funding was recommended this year. All other items are budgeted at last year's amounts.

The assessment rate of \$2.25 per hundredweight is \$0.75 more than last season. This rate, when applied to anticipated date shipments of 36,000,000 pounds (360,000 hundredweight), will yield \$810,000 in assessable income. This, along with \$1,000 in interest income, will result in \$36,782 in excess income which will be allocated to the Committee's reserve. Funds in the reserve as of September 30, 1996, which the Committee estimates will be \$235,782, should be within the maximum amount permitted by the order. Funds held by the Committee at the end of the crop year, including the reserve, which are in excess of the crop year's expenses may be used to defray expenses for four months and thereafter the Committee shall refund or credit the excess funds to the handlers.

A proposed rule was published in the Federal Register on August 7, 1995 (60 FR 40116). That rule provided that interested persons could file written comments through September 6, 1995. No comments were received.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register (5 U.S.C. 553) because the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1995-96 crop year begins on October 1, 1995. The marketing order requires that the rate of assessment for the crop year apply to all assessable dates handled during the crop year. In addition, handlers are aware of this rule which was recommended by the Committee at a public meeting and published in the Federal Register as a proposed rule. Written comments were invited, and none was received.

List of Subjects in 7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 987 is amended as follows:

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

1. The authority citation for 7 CFR part 987 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. A new § 987.338 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 987.338 Expenses and assessment rate.

Expenses of \$774,218 by the California Date Administrative Committee are authorized, and an assessment rate of \$2.25 per hundredweight of assessable dates is established for the crop year ending September 30, 1996. Unexpended funds

may be carried over as a reserve within the limitations specified in § 987.72 (c) and (d).

Dated: September 22, 1995.

Sharon Bomer Lauritsen,
Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95-24047 Filed 9-27-95; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 997

[Docket No. FV95-997-2IFR]

Amendment of Provisions Regulating Domestically Produced Peanuts Handled by Persons Not Subject to the Peanut Marketing Agreement

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule amends for 1995 and subsequent crop years several certification and identification requirements established for peanuts handled by persons not signatory to Peanut Marketing Agreement No. 146 (Agreement). This rule provides for a chemical analysis exemption for superior grade shelled peanuts and establishes a maximum grade tolerance for reconditioning failing peanuts by blanching. Finally, this rule adds addresses and updates contact numbers of chemical analysis laboratories. The changes concerning peanuts for human consumption are consistent with industry operating practices and help bring the non-signatory handling requirements into conformity with requirements specified in the Agreement. The rule should reduce the regulatory burden and handling costs on non-signatory peanut handlers.

DATES: Effective September 28, 1995. Comments received by October 30, 1995, will be considered prior to issuance of any final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, D.C., 20090-6456, or Fax: (202) 720-5698. Comments should reference the docket number and the date and page number of this issue of the Federal Register and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Richard Lower, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O.